FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.31842 OF 2004

Office notes, office	:	
Memoranda of Coram,	:	
appearances, Court's	:	Court's or Judge's Orders
orders or directions	:	
& Registrar's orders.	:	.

Mr. Glenn A. Lobo for the appellant.

Mr. J. Xavier for the B.M.C.

CORAM: SMT. RANJANA DESAI, J.

DATED: 8TH APRIL, 2005.

P.C.:-

This first appeal is filed challenging order dated 9/12/2004 passed by the Bombay City Civil Court in L.C. Suit No.5239 of 2004.

The trial court has dismissed the suit as being premature because the advocate for the B.M.C. made a statement that no final order was passed on the notice issued under section 351 of the Bombay Municipal Corporation Act. It was observed that the plaintiff had challenged only the notice. The learned counsel for the appellant states that now the Assistant Commissioner, "H" West Ward

has passed the final order. If that is so, the appellant will have to challenge the final order if he is so advised. The learned counsel for the appellant states that he will take necessary steps within six weeks from today. In the peculiar facts of this case, for a period of six weeks, the respondent-Corporation shall not take any steps pursuant to the order dated 31/3/2005 passed by the Assistant Commissioner, "H" West Ward. It is clarified that this order is not passed after considering the merits of the case. In view of the above, nothing survives in this first appeal.

First appeal is disposed of as such.

(SMT. RANJANA DESAI, J.)